

**FULL TEXT OF MEASURE E
COUNTY OF ORANGE**

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA

THE PEOPLE OF THE COUNTY OF ORANGE HEREBY ORDAIN AND
ENACT AS FOLLOWS:

SECTION 1. TITLE

This ordinance shall be known and may be cited as AN ORDINANCE TO REALLOCATE PUBLIC SAFETY SALES TAX FUNDS TO THE OPERATION OF JUVENILE DETENTION FACILITIES AND MONITORING OF JUVENILE OFFENDERS AND ADULT CRIMINALS ON PROBATION BY THE ORANGE COUNTY PROBATION DEPARTMENT.

SECTION 2. FINDINGS AND DECLARATIONS

- (a) The Local Public Safety Protection and Improvement Act of 1993, established by Proposition 172, codified at Article 13, Section 35 of the California Constitution, provides funding for local public safety services through imposition of a one-half cent sales tax.
- (b) Proposition 172 funding was intended to make up for the loss of county and city revenue resulting from 1992 State legislation that shifted property tax revenue from counties and cities to the Education Revenue Augmentation Fund ("ERAF") to help fund schools.
- (c) In Fiscal Year 2003-2004 the revenue lost to the County of Orange because of the ERAF shift was over \$261 million.
- (d) The Orange County Fire Department, now the Orange County Fire Authority, was exempt from the ERAF shift and for Fiscal Year 2003-2004 lost no revenue as a result of ERAF.
- (e) Proposition 172, as implemented, gives authority to the County to allocate Proposition 172 sales tax revenues to public safety services.
- (f) The County currently allocates its Proposition 172 funds to the Sheriff's Department and the District Attorney's Office that both lost funding because of the ERAF shift and not to the Orange County Fire Authority that was exempt from the ERAF shift and lost no revenues because of ERAF.
- (g) It is the desire of the People of the County of Orange that no new taxes be imposed and that the County's Proposition 172 sales tax revenues be apportioned so that the Orange County Probation Department can receive increased funding.
- (h) The Orange County Probation Department is responsible for monitoring adult criminals and juvenile offenders, detaining juvenile offenders, enforcing court orders and collecting restitution for victims of crime across the county.
- (i) In 2004 the Probation Department actively supervised a monthly average of some 9,856 high-risk adult criminals, including sex offenders, and 4,182 juvenile offenders. The Probation Department discontinued supervision of 3,200 adult criminals in Fiscal Year 2003-2004 due to budget cuts that reduced its funding.
- (j) Daily there are approximately 800 juvenile offenders housed in the Probation Department's juvenile detention facilities. The Probation Department's Juvenile Court Division processes a monthly average of 375 juveniles for detention and 700 for supervision and conducts a monthly average of 130 investigations for the court. The Probation Department's Adult Court Division conducts a monthly average of 81 investigations for the court. There are over 450 adult sex offenders under the Probation Department's supervision and some 550 serious gang cases are under investigation by its Gang Violence Suppression Unit. The Probation Department confiscated 669 weapons in 2004.
- (k) California Elections Code section 9221 provides that if the provisions of two or more ordinances adopted at the same election conflict, the ordinance receiving the highest number of affirmative votes shall control.
- (l) This Ordinance is intended to be in conflict with and inconsistent with each and every provision, and is intended as an alternative to, the "Initiative Reallocating a Portion of County Proposition 172 Funds from the County Sheriff-Coroner and District Attorney to the Orange County Fire Authority". Further, the People do intend that this ordinance is in conflict with and is not complementary to any other measure on the same ballot that allocates any portion of the County's Proposition 172 sales tax revenues. *Taxpayers to Limit Campaign Spending v. FPCC*, 51 Cal. 3d 744 (1990); *Concerned Citizens v. City of Carlsbad*, 204 Cal. App. 3d 937 (1988).

SECTION 3. Section 1-2-42 is added to the Codified Ordinances of Orange County to read:

Sec. 1-2-42. Allocations of County's Share of Public Safety Augmentation Fund.

A. Definitions.

For the purpose of this Ordinance, the following definitions will apply:

"County" means County of Orange.

"County's Share" means the portion of the Fund that is not allocated to cities under the Law.

"Department" means the Orange County Probation Department.

"Fund" means the Public Safety Augmentation Fund created in the County Treasury pursuant to the terms of the Law.

"Law" means the Local Public Safety Fund Law (California Government Code, Title 3, Division 3, Chapter 6.5, Section 3051 *et seq.*), as may be amended from time to time, and as intended as the legislative implementation of Article XIII, Section 35 of the California State Constitution.

B. Public Safety Funding.

The Fund consists of all revenues received by the County pursuant to the Law. The monies in the Fund can only be expended for the purposes and subject to the limitations provided in the Law. The Law requires the County Auditor to make allocations to the cities in the County pursuant to specific provisions in the Law and that all monies in the Fund that are not distributed to the cities are to be allocated to the County as the County's Share. Commencing on January 1, 2006, and each fiscal year thereafter, the County Auditor shall allocate five percent (5%) of the County's Share to the Department and the remaining ninety-five percent (95%) of the County's Share shall be allocated to public safety services as defined by the law.

SECTION 4. AMENDMENT

This ordinance shall not be modified, amended, or repealed, except by a majority vote of the electorate.

SECTION 5. CONFLICTS AND COMPETING MEASURES

Notwithstanding any provision in any other measure on the same ballot, this Ordinance is in conflict and inconsistent with every provision of, and is intended as an alternative to, the "Initiative Reallocating a Portion of the County Proposition 172 Funds from the County Sheriff-Coroner and District Attorney to the Orange County Fire Authority" or any other competing measures that purport to allocate any portions of the County's Proposition 172 sales tax revenue.

SECTION 6. SEVERABILITY

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The People of Orange County hereby declare that they would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsection, subdivision, sentence, clause, phrase, or portions thereof be declared invalid or unconstitutional.

**IMPARTIAL ANALYSIS BY COUNTY COUNSEL
MEASURE E**

In 1993, California voters approved the Local Public Safety Protection and Improvement Act of 1993 (Proposition 172), a constitutional amendment, directing that proceeds of a one-half cent statewide sales tax be used only for local public safety services. Qualified counties, including Orange County, receive allocations of Proposition 172 funds from the State. Within each qualified county, the Proposition 172 funds are allocated to cities that provide local public safety services, and the remainder is allocated to the county. Proposition 172 funds must be used for public safety services as specified in California law, including sheriffs, police, fire protection, county district attorneys, county corrections and ocean lifeguards. Currently, Orange County's share of Proposition 172 funds that is not allocated to the cities (the "County's Share") is allocated to the County Sheriff-Coroner and District Attorney for law enforcement services. The County Probation Department does not receive any Proposition 172 funds.

If this measure is adopted, beginning on January 1, 2006 and for each subsequent fiscal year, 5% of the County's Share would be shifted to the Probation Department. The remaining 95% of the County's Share would be available for allocation by the County to public safety services as specified in California law, including sheriffs, police, fire protection, county district attorneys, county corrections and ocean lifeguards.

The measure states that it may be amended or repealed only by a vote of the people.

The measure provides that it is in conflict with and intended as an alternative to competing measures on the ballot that allocate any portion of the County's Proposition 172 funds, including the Initiative Reallocating a Portion of the County's Proposition 172 Funds From the County Sheriff-Coroner and District Attorney to the Orange County Fire Authority (Measure D).

MEASURE E

Ordinance to Reallocate Public Safety Sales Tax Funds to the Operation of Juvenile Detention Facilities and Monitoring of Juvenile Offenders and Adult Criminals on Probation by the Orange County Probation Department Fiscal Impact Statement

If passed, there would be no overall fiscal effect to the amount of revenues available to support countywide public safety programs provided by the County of Orange (County). The measure would allocate 5 percent of the County's Share of Proposition 172 funds to the County Probation Department commencing on January 1, 2006. There would be no administrative costs to the County to implement the measure.

In 1993, the California voters approved the Local Public Safety Protection and Improvement Act of 1993 (Proposition 172) as a mitigation measure to offset the impact of the Education Revenue Augmentation Fund ("ERAF") shifts on municipal budgets. In 1992 and 1993, the California Legislature and Governor instructed county auditors to shift the allocation of local property tax revenues away from local government to ERAF for the benefit of schools. The allocation formula is based on the proportionate share of net property tax loss due to the ERAF shifts. The following table illustrates the relationship between these shifts and Proposition 172 revenues for the County:

Year	ERAF	Proposition 172	Variance
1992-93	\$(14,527,988)	--	\$(14,527,988)
1993-94	(159,328,571)	\$130,357,584	(28,970,987)
1994-95	(157,840,022)	141,143,489	(16,696,533)
1995-96	(158,216,656)	152,494,439	(5,722,217)
1996-97	(159,372,366)	161,186,301	1,813,935
1997-98	(164,444,481)	173,665,323	9,220,842
1998-99	(174,106,932)	184,049,906	9,942,974
1999-00	(188,481,617)	209,748,928	21,267,311
2000-01	(206,551,203)	223,604,856	17,053,653
2001-02	(225,274,561)	213,607,460	(11,667,101)
2002-03	(244,917,635)	219,562,310	(25,355,325)
2003-04	(261,247,391)	236,946,901	(24,300,490)
2004-05	<u>(283,310,895)</u>	<u>262,101,986</u>	<u>(21,208,909)</u>
	<u>\$(2,397,620,318)</u>	<u>\$2,308,469,483</u>	<u>\$(89,150,835)</u>

There are no plans in the State for reducing or eliminating these ERAF shifts. A separate shift, not illustrated in the table above, took \$27,730,861 from the County's 2004-05 budget and will take an additional \$27,730,861 from the 2005-06 budget.

This measure would not affect the total funding for the County's public safety programs. It would, however, allocate 5 percent of the County's share of Proposition 172 revenues to the County Probation Department. The following table illustrates those allocations. Future Proposition 172 revenues are based on a Chapman University forecast.

	Estimated Proposition 172 Sales Tax Revenues	Estimated Allocations to The County Probation Department		Estimated Proposition 172 Sales Tax Revenues	Estimated Allocations to The County Probation Department
2004-05	\$262,101,986	--	2010-11	345,914,960	17,295,748
2005-06	276,255,493	\$6,906,387	2011-12	361,827,049	18,091,352
2006-07	288,963,246	14,448,162	2012-13	378,471,093	18,923,555
2007-08	302,255,555	15,112,778	2013-14	395,880,763	19,794,038
2008-09	316,159,311	15,807,966	2014-15	414,091,278	20,704,564
2009-10	330,702,639	16,535,132	2015-16	433,139,477	<u>21,656,974</u>
			Eleven Year Total		<u>\$185,276,656</u>

If passed, this measure would require that approximately \$185,276,656 of the County's share of Proposition 172 revenues be allocated to the Orange County Probation Department over the next eleven years.

David E. Sundstrom
County Auditor-Controller

ARGUMENT IN FAVOR OF MEASURE E

YOUR YES VOTE ON MEASURE E CAN HELP KEEP THE LID ON REPEAT VIOLENT OFFENDERS THROUGHOUT ORANGE COUNTY.

The Orange County Probation Department is responsible for monitoring adult criminals and juvenile offenders. In 2004 the Probation Department actively supervised a monthly average of 9,856 high-risk adult criminals, including sex offenders. Due to a lack of funding the Probation Department discontinued supervision of 3200 adult criminals in fiscal year 2003-2004

Currently the Orange County Probation Department receives none of the Proposition 172 sales tax revenue for Public Safety services. If Measure E is adopted by Orange County voters the Probation Department will receive 5% of Orange County's share of the Public Safety Funds.

These funds will help restore programs that are CRITICAL FOR PUBLIC SAFETY. Remember, unlike the Orange County Fire Authority and other special districts, the Orange County Probation Department does not have the luxury of receiving a dedicated percentage of property taxes... a windfall of funding in Orange County's escalating real estate market.

The Probation Department is on the front lines of combating crime in Orange County. Currently 550 serious gang cases are under investigation by its Gang Violence Suppression Unit. In 2004 the Probation Department confiscated 669 weapons.

The Probation Department is currently supervising over 450 adult sex offenders.

There are other important functions carried out by the Orange County Probation Department. The Probation Department's Juvenile Court Division processes a monthly average of 375 juveniles for detention and 700 for supervision.

All of these responsibilities need to be successfully maintained to help keep Orange Countians safe.

PLEASE VOTE YES ON MEASURE E for the sake of public safety. 5% of the Proposition 172 funds can make a big difference in allowing the Orange County Probation Department to have the financial support it needs to do its job.

s/ Bill Campbell
Chairman, Orange County Board of Supervisors

s/ Michael Schumacher
Former Orange County Chief Probation Officer

s/ Melissa Manning Alsop
Member, Concerns of Police Survivors

s/ Michael Carre
Retired Assistant Chief Orange County District Attorney's Office
Bureau of Investigation

s/ Alexandria Coronado
President, Orange County Board of Education

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE E

The Board of Supervisors has received over **TWO BILLION DOLLARS** from Proposition 172 and not one single penny has gone to fire protection services from this fund.

Fire fighters shouldn't be penalized for the mis-management of your tax dollars.

This isn't an issue between fire fighters and the valuable service provided by the Probation Department. The issue is honoring the **promise** of Proposition 172 — of honoring the voters' intent — that fire fighters and paramedics receive a fair share of Proposition 172 funds.

Measure E actually allows the Board of Supervisors to **continue to break the promise** of Proposition 172 by diverting essential dollars for needed fire protection and paramedic services to other departments within County government.

This isn't right, it isn't fair and it isn't what the voters intended when they passed Proposition 172 in 1993, in the wake of the devastating Laguna Beach fire storms.

For more information go to:

www.firefightersforpublicsafety.com

Your paramedics and fire fighters have always been there for you; today they need your help.

Please vote No on Measure E.

s/ Ken Blake, Mayor of the City of La Palma

s/ James V. Lacy, Dana Point City Council

s/ Richard Chavez, Mayor Pro Tem of the City of Anaheim

s/ Mike Boyle, President of the Orange County Fire Authority Chief Officer's Association

s/ Joe Kerr, President of the Orange County Professional Firefighters' Association

ARGUMENT AGAINST MEASURE E

Don't be fooled by the Supervisors' attempts to trick you. ***This measure may lead to new taxes.*** Measure E does not provide a single penny for fire fighters. Measure E was placed on the ballot by the Supervisors to confuse you.

In 1993, while homes burned in Laguna Beach, voters in Orange County adopted Proposition 172, which extended a half-cent sales tax to be used exclusively to fund ***fire protection***, police and other public safety programs. As indicated in the statewide ballot pamphlet argument printed in favor of Proposition 172, the voters were ***promised*** that a portion of Proposition 172 funds would go to ***fire protection***.

Since the passage of Proposition 172, over \$2 billion in funds have been given to the County, yet the Supervisors have failed to provide a single penny from the Proposition 172 funds for fire protection.

Measure E ***does not provide a single penny for increased paramedic service, or fire protection.*** The only thing it does is allow the Supervisors to break a promise made to the voters in 1993 that fire fighters would receive some of the Proposition 172 funds.

Because of the Supervisors' refusal to provide a single penny of Proposition 172 funds for fire protection, your Orange County Fire Authority firefighters are forced to use aging equipment and over half of your Orange County Fire Authority fire stations are understaffed.

Your fire fighters and paramedics have always been there for you. Today they need your help.

Please vote **NO ON MEASURE E.**

s/ Ken Blake, Mayor of the City of La Palma

s/ James Lacy, Dana Point City Council

s/ State Senator Bill Morrow

s/ Mike Boyle, President of the Orange County Fire Authority Chief Officer's Association

s/ Joe Kerr, President of the Orange County Professional Firefighters

REBUTTAL TO ARGUMENT AGAINST MEASURE E

Your YES VOTE on Measure E will make our neighborhoods and schools safer.

Unlike the Orange County Fire Authority, the Orange County Probation Department is a county-wide agency providing important public safety services across Orange County...not just a regional agency for just 43% of Orange County's population.

Unlike this regional Fire Authority, the Orange County Probation Department does not receive dedicated and guaranteed property tax revenue.

Unlike this regional Fire Authority, the Orange County Probation Department is not trying to double-dip by collecting both dedicated property taxes and Proposition 172 sales tax money.

Your YES VOTE on Measure E will guarantee that 5% of existing Proposition 172 sales tax money will be directed to shore-up the Probation Department's insufficient funding.

Remember your Orange County Probation Department is on the front lines fighting crime across Orange County:

Measure E provides vital resources for gang suppression.

Measure E provides more funding to monitor sex offenders.

Measure E helps get guns out of the hands of criminals.

The Orange County Fire Authority is so flush with money that they were able to construct a lavish \$50 million dollar office complex. Now they want even more money so they can continue their wasteful spending.

Measure E will guarantee that Proposition 172 money is spent how it was originally intended – to keep us safe. VOTE YES on Measure E.

s/ Bill Campbell
Chairman, Orange County Board of Supervisors

s/ Michael Schumacher
Orange County Chief Probation Officer Retired

s/ Melissa Manning Alsop
Member, Concerns of Police Survivors

s/ Michael Carre
Retired Assistant Chief, Orange County District Attorney's Office
Bureau of Investigation

s/ Alexandria Coronado
President, Orange County Board of Education